

EXHIBIT N

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 - - - - -x

5 KASHIF ALLEYNE AND DAMANI MCFARLANE,

6 Plaintiffs,

7 -against- Index No.

15CV1860 (WFK) (VMS)

8
9 P.O. WALIUR RAHMAN, SHIELD NO. 6428; DET.
YIKA MORALES, SHIELD NO. 5430; DET. NATIA
KALANDADZE, SHIELD NO. 20858; DET. JAMES
10 MCCULLOUGH, SHIELD NO. 31112; DET. LORNE
KANOVER, SHIELD NO. 1824,

11 Defendants.

12 - - - - -x

13 305 Broadway

14 New York, New York

15 June 24, 2016

10:48 a.m.

16
17 DEPOSITION of JAMES MCCULLOUGH,
18 one of the Defendants in the
19 above-entitled action, held at the above
20 time and place, taken before Margaret
21 Scully-Ayers, a Shorthand Reporter and
22 Notary Public of the State of New York,
23 pursuant to the Federal Rules of Civil
24 Procedure.

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APPEARANCES:

ROBERT MARINELLI, ESQ.

Attorney for Plaintiffs

305 Broadway

Ninth Floor

New York, New York 10007

ZACHARY W. CARTER, ESQ.

Corporation Counsel for

The City of New York

Attorneys for Defendants

100 Church Street

New York, New York 10007

BY: WILDA J. RODRIGUEZ, ESQ.

ALSO PRESENT: CHRISTOPHER WRIGHT, ESQ.

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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by
and among counsel for the respective
parties hereto, that the filing, sealing
and certification of the within
deposition shall be and the same are
hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form of
the question, shall be reserved to the
time of the trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
before any Notary Public with the same
force and effect as if signed and sworn
to before the Court.

* * *

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2 J A M E S M c C U L L O U G H, the
3 Witness herein, having first been duly
4 sworn by the Notary Public, was examined
5 and testified as follows:

6 BY THE REPORTER:

7 Q. What is your name?

8 A. James McCullough.

9 Q. Where do you reside?

10 A. One Police Plaza, New York, New
11 York 10038.

12 EXAMINATION BY MR. MARINELLI:

13 Q. Officer, your name is James
14 McCullough?

15 A. Yes.

16 Q. And you work for the NYPD?

17 A. Yes, I do.

18 Q. How long have you worked for
19 the NYPD?

20 A. Approximately ten and a half
21 years.

22 Q. Where are you assigned now?

23 A. Brooklyn North Narcotics.

24 Q. October 30, 2014, the day of
25 the incident, do you know where you were

1 J. McCULLOUGH

2 windows were to the left. Close to one
3 of the windows was a television. On the
4 right-hand side was a bed.

5 Q. Did you see any people in this
6 room?

7 A. Yes, I did.

8 Q. Did you see any police
9 personnel?

10 A. No. Other than myself and
11 Detective Kanover, no.

12 Q. And who did you see in the
13 room?

14 A. I saw one male black.

15 Q. Had he been secured?

16 A. Upon me entering the room, no.

17 Q. Can you describe his position
18 for me?

19 A. I don't remember.

20 Q. Would that be unusual for an
21 individual to not be secured before you
22 got there?

23 MS. RODRIGUEZ: Objection to
24 form.

25 A. Would that be?

1 J. McCULLOUGH

2 Q. Doesn't bunker security or
3 anyone in that first wave of people,
4 don't they usually secure everybody?

5 A. Usually, but they aren't able
6 to secure everybody.

7 Q. Is doesn't always happen?

8 A. Right.

9 Q. When you walked in, you saw the
10 male black. Can you described for me
11 what he was wearing?

12 A. I don't remember.

13 Q. Can you describe for me how
14 tall he was?

15 A. I don't remember.

16 Q. Can you describe, was he
17 light-skinned or dark-skinned?

18 A. I don't remember.

19 Q. He was a male black?

20 A. That's all I remember.

21 Q. Can you describe to me thin or
22 heavy?

23 A. I don't remember.

24 Q. Can you describe to me his
25 hairstyle?

1 J. McCULLOUGH

2 A. I don't recall.

3 Q. You remember nothing besides
4 his race and his gender, that's it?

5 A. That's it.

6 Q. Can you tell me what he was
7 doing when you walked into the room?

8 A. I don't remember what he was
9 doing.

10 Q. Do you remember saying anything
11 to him or him saying to you?

12 A. Yes, I remember him asking what
13 we were doing at the location. I told
14 him we were executing a search warrant.

15 I believe he said something
16 about not knowing what was going on, he
17 was a tattoo artist, and that was pretty
18 much it.

19 Q. Do you remember if Officer
20 Kanover said anything to him?

21 A. I don't remember.

22 Q. And after you first saw him,
23 did you ever learn this person's name?

24 A. I might have had at the time.
25 I can't recall exactly.

1 J. McCULLOUGH

2 Q. Is it in your memo book?

3 A. No, it's not.

4 Q. That conversation you had, is
5 that the first thing that happened when
6 you walked into the room?

7 A. No.

8 Q. What is the first thing that
9 happened?

10 A. He was placed in handcuffs.

11 Q. Do you know if you placed him
12 in handcuffs or did Officer Kanover?

13 A. I believe Detective Kanover.

14 MR. MARINELLI: Off the record.

15 [Discussion held off the
16 record.]

17 Q. Did you see him place this
18 individual in handcuffs?

19 A. I don't recall exactly.

20 Q. Do you recall if Officer
21 Kanover asked this individual's name?

22 A. I don't remember.

23 Q. Do you recall if the individual
24 was rear-cuffed, front-cuffed,
25 back-cuffed?

1 J. McCULLOUGH

2 A. Rear-cuffed.

3 Q. Do you recall if anyone asked
4 this individual to put his hands behind
5 his back or gave any direction to him how
6 he should behave after he was handcuffed?

7 A. I don't recall exactly.

8 Q. The next thing you remember, he
9 was in handcuffs?

10 A. Correct.

11 Q. And that conversation
12 concerning asking why he was here and him
13 telling you he was a tattoo artist
14 happened after he was in handcuffs?

15 A. To the best of my recollection,
16 yes.

17 Q. Can you tell me what you
18 remember next?

19 A. I remember a loud sound behind
20 me.

21 Q. What do you remember next about
22 the individual in front of you in
23 handcuffs?

24 A. I'm sorry. Can I backtrack a
25 little?

1 J. McCULLOUGH

2 [Whereupon, the Witness is
3 conferring with his attorney.]

4 MR. MARINELLI: You can't
5 consult in the middle of a question.
6 You can ask to talk at any time but
7 not in the middle of a question. Your
8 lawyer should know this.

9 While the question is posed, you
10 have to answer the question.

11 Read back the question.

12 [The requested portion of the
13 record was read.]

14 A. Don't really remember anything
15 about that individual. I remember
16 another individual that was in handcuffs
17 being brought into the room that I was
18 in.

19 Q. Can you describe that
20 individual for me besides gender and
21 race?

22 A. I can't even describe that for
23 you.

24 MS. RODRIGUEZ: A quick break.

25 [Whereupon, at 11:09 a.m. a

1 J. McCULLOUGH

2 recess was taken.]

3 [Whereupon, at 11:11 a.m., the
4 testimony continued.]

5 Q. And this individual that came
6 in, did he come in, if you know, before
7 the conversation that Detective Kanover
8 had with this individual in front of you?

9 MS. RODRIGUEZ: Objection to
10 form.

11 A. What conversation are you
12 talking between Detective Kanover?

13 Q. And the individual, what are
14 you doing here, I'm a tattoo artist.

15 A. That conversation was between,
16 from what I remember, myself and the
17 person.

18 Q. I misunderstood.

19 Do you know if that second
20 person came into the room before or after
21 that conversation?

22 A. I believe it was after.

23 Q. Did you have any conversations
24 with the second person in the room, the
25 second nonpolice personnel?

1 J. McCULLOUGH

2 A. No.

3 Q. Do you know who brought this
4 individual into the room?

5 A. No.

6 Q. Do you remember this person's
7 name?

8 A. No.

9 Q. Do you know if you ever knew
10 this person's name?

11 A. No.

12 Q. Did you have any involvement
13 with this person already in handcuffs?

14 A. None.

15 Q. Did you see this person
16 eventually get handcuffed?

17 A. When the person entered the
18 room, they were already in handcuffs.

19 Q. Did you see this person in
20 handcuffs?

21 A. Yes.

22 Q. Was he front-cuffed or
23 rear-cuffed?

24 A. Rear-cuffed.

25 Q. Did he come in on his own or

1 J. McCULLOUGH

2 with police personnel?

3 A. Police personnel.

4 Q. Do you recall who that police
5 personnel was?

6 A. No.

7 Q. Can you tell me happened next?

8 A. That was when I heard the loud
9 noise behind me.

10 Q. Was that in the room where you
11 were?

12 A. Yes.

13 Q. The noise came from the room
14 where you were or another room?

15 A. It came from the room I was in,
16 behind me.

17 Q. Did you turn around to see what
18 caused that noise?

19 A. Yes.

20 Q. Can you tell me what that was?

21 A. An individual that was somehow
22 outside and was trying to enter the room
23 through a window.

24 Q. Can you describe that
25 individual?

1 J. McCULLOUGH

2 Q. Did you say anything at that
3 point?

4 A. I don't remember.

5 Q. What is the next thing you
6 remember doing after that?

7 A. The next thing I remember is
8 going outside.

9 Q. This room that you went into
10 where there was the first black male and
11 then a second male of uncertain race came
12 in, did you ever search that room?

13 A. No.

14 Q. Did you ever see any contraband
15 in that room?

16 A. No.

17 Q. Did you see Detective Kanover
18 search that room?

19 A. No.

20 Q. Are you aware, did Detective
21 Kanover ever find any contraband in that
22 room?

23 A. I have no idea who searched
24 that room.

25 Q. Did you see the room searched

1 J. McCULLOUGH

2 while you were in the room?

3 A. No.

4 Q. When you left that room, were
5 the two nonpolice personnel individuals
6 still in that room?

7 A. I don't recall exactly.

8 Q. Tell me what you remember, when
9 was the last time that you recall seeing
10 these two individuals?

11 A. When they were inside the room
12 before leaving the room.

13 Q. They were inside the room
14 before leaving the room?

15 A. Before I left the room?

16 Q. Yes.

17 A. Yes.

18 Q. They were still inside the
19 room?

20 A. Yes, I don't remember who left
21 first.

22 Q. They may have been in the room
23 or they may not have been.

24 Do you know if you left first
25 or those individuals left first?

1 J. McCULLOUGH

2 A. I'm not sure who left first.

3 MR. MARINELLI: Off the record.

4 [Discussion held off the
5 record.]

6 Q. Can you approximate for me how
7 long you were in that room?

8 A. Approximately two minutes.

9 Q. Do you recall physically
10 leaving that room?

11 A. No.

12 Q. Do you recall going back down
13 the steps that you originally came up?

14 A. I don't recall exactly.

15 Q. Do you recall going down those
16 steps?

17 A. No.

18 Q. Do you recall seeing any police
19 personnel on the floor where you were in
20 that room between the victims?

21 A. Repeat the question.

22 Q. Let me make it clear.

23 You were one of the people that
24 went up to the second floor, the
25 apartment; is that right?

1 J. McCULLOUGH

2 A. Yes.

3 Q. Do you recall seeing any other
4 police officer personnel besides
5 Detective Kanover on the second floor in
6 that apartment building?

7 A. Yes.

8 Q. Who else?

9 A. I don't remember who it was.

10 Q. Can you describe them to me?

11 A. No.

12 Q. Race?

13 A. Can't remember.

14 Q. Gender?

15 A. No.

16 Q. Do you know if there was one
17 person that you saw or more than one
18 person?

19 A. Can't remember.

20 Q. Did you see them as you were
21 leaving the room?

22 A. I can't remember.

23 Q. Did you see them before you
24 entered the room?

25 A. I don't remember exactly.

1 J. McCULLOUGH

2 A. No.

3 Q. Let me just ask you a few
4 questions about some names.

5 At any time that day, did you
6 see on the scene on the day of the
7 incident at 1346 Prospect Place either
8 inside or outside, Detective Kenny?

9 A. No.

10 Q. Lieutenant Gately, G-A-T-E-L-Y?

11 A. No.

12 Q. All of these questions are on
13 the day of the incident at the scene.

14 A. Okay.

15 Q. Did you see Sergeant Bright?

16 A. No.

17 Q. Detective Michellie [phonetic]?

18 A. No.

19 Q. Detective Santana?

20 A. No.

21 Q. Detective Martin?

22 A. No.

23 Q. Detective Khan?

24 A. Yes.

25 Q. Detective Paul Sano?

1 J. McCULLOUGH

2 A. No.

3 Q. Miller?

4 A. No.

5 Q. Detective LaFortune [phonetic]?

6 A. No.

7 Q. Detective Kalandadze?

8 A. Yes.

9 Q. You saw her inside the 1346
10 Prospect Place?

11 A. No.

12 Q. You saw her outside of 1346
13 Prospect Place?

14 A. Yes.

15 Q. Detective O'Brian?

16 A. No.

17 Q. Detective Rahman?

18 A. No.

19 Q. Detective Parenti [phonetic]?

20 A. No.

21 Q. Detective James Rivera?

22 A. No.

23 Q. Would it be fair to say besides
24 Detective Kanover, you don't recall
25 seeing anyone else on the scene?

1 J. McCULLOUGH

2 A. Detective Kalandadze.

3 Q. You don't recall Detective
4 Kalandadze inside the apartment --

5 A. That's correct.

6 Q. -- at 1346 Prospect Place?

7 A. Not that I remember.

8 Q. During the period of time that
9 you were inside 1346 Prospect Place, did
10 you ever see any contraband anywhere?

11 A. No.

12 Q. Have you ever seen anything
13 there that seemed suspicious to you?

14 MS. RODRIGUEZ: Objection to
15 form.

16 A. Suspicious contraband?

17 Q. Anything suspicious.

18 A. No.

19 Q. Prior to October 30, 2014, were
20 you involved in any part of an
21 investigation into 1333 Prospect Place or
22 1346 Prospect Place?

23 A. No.

24 Q. After going outside after
25 having been inside 1346 Prospect Place,